

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MATTHEW CARON; MATTHEW GUDGER; JEFFREY MURRAY, MD; GARY WEHNER; JOHN AMIDON; NUNZIO CALCE; JAMES MIDDLETON; SECOND AMENDMENT FOUNDATION, INC.; S.C.O.P.E., INC.; AND, LONG ISLAND FIREARMS, LLC,

STIPULATION

13-CV-1211
(GLS/TWD)

Plaintiffs,
-against-

ANDREW CUOMO, in his Official Capacity as Governor of the State of New York; and JOSEPH D'AMICO, in his Official Capacity as Superintendent of the Division of State Police

Defendants.

WHEREAS, plaintiffs commenced this action by filing a Complaint on September 27, 2013; and,

WHEREAS, plaintiffs filed an Amended Complaint on December 27, 2013; and,

WHEREAS, plaintiffs are various associations of gun owners and advocates and individual gun-owning citizens of New York; and,

WHEREAS, plaintiffs challenge the constitutionality of a particular provision in the New York Secure Ammunition and Firearms Enforcement Act of 2013 ("SAFE Act") -- specifically, plaintiffs challenge section 265.37 of New York's Penal Law, which provides that it "shall be unlawful for a person to knowingly possess an ammunition feeding device where such device contains more than seven rounds of ammunition"; and,

WHEREAS, various provisions of the SAFE Act were challenged in *New York State Rifle and Pistol Association Inc. v. Cuomo*, 13-CV-291 (WMS) (WDNY) which named Governor M. Cuomo and Superintendent of State Police Joseph D'Amico as defendants; and,

WHEREAS, on December 31, 2013, the Honorable William M. Skretny issued a Decision and Order in which the Court upheld various provisions of the SAFE Act, but found on the record before it that section 265.37 is unconstitutional; and,

WHEREAS, all parties to the *New York State Rifle and Pistol Association Inc.* case filed Notices of Appeal; and,

WHEREAS, the sole issue before this Court is now before the Court of Appeals for the Second Circuit; and,

WHEREAS, Superintendent D'Amico directed Members of the Division of State Police that they shall not enforce section 265.37 of New York's Penal Law during the pendency of the appeal in *New York State Rifle and Pistol Association Inc.*; and,

WHEREAS, Executive State Agencies have been instructed not to enforce 265.37 during the pendency of the appeal in *New York State Rifle and Pistol Association Inc.*; and

WHEREAS, the parties do not desire to engage in or burden the Court with unnecessary litigation; it is

HEREBY STIPULATED AND AGREED by and between the undersigned, the attorneys for Plaintiffs and Defendants that:

1. This action will be stayed pending the appeal of the Decision and Order in *New York State Rifle and Pistol Association Inc. v. Cuomo*; and,
2. Superintendent D'Amico will not rescind or revoke his direction to Members of the Division of State Police that they shall not enforce section 265.37 of New York's Penal Law during the pendency of the appeal in *New York State Rifle and Pistol Association Inc.*; and,

3. The direction to Executive State Agencies to not enforce section 265.37 of New York's Penal Law will not be rescinded or revoked during the pendency of the appeal in *New York State Rifle and Pistol Association Inc.*; and,
4. The foregoing constitutes the entire agreement of the parties.

Dated: Albany, New York
March 21, 2014

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Dated: New York, New York
March 21, 2014

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Dated: Carmel, New York
March 21, 2014

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SO ORDERED:

Gary L. Sharpe
HON. GARY L. SHARPE
UNITED STATES DISTRICT JUDGE

April 1, 2014